IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

TUESDAY, THE 11TH DECEMBER 2007 / 20TH AGRAHAYANA 1929

WP(C).No. 10071 of 2007(Y)

PETITIONERS:
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1. **P.S.HARIDAS,CO-ORDINATOR,SEED UNIT,**
   DHONI FARM,KERALA LIVESTOCK DEVELOPMENT BOARD LTD,
   PALAKKAD- 678 099.

2. **K.S HIPPARGI,DEPUTY MANAGER (FD),**
   DHONI FARM,KERALA LIVE STOCK DEVELOPMENT BOARD LTD
   PALAKKAD 678 009.

3. **C.S.LALITHA,CONFIDENTIAL ASSISTANT(SR.GR.),**
   KERALA LIVE STOCK DEVELOPEMENT BOARD LTD,
   KOOVATTUPUZHA 686 669.

4. **V.VIJAYAKUMARI,JUNIOR SUPERINTENDENT,**
   KERALA LIVE STOCK DEVELOPEMENT BOARD LTD,
   MOOVATTUPUZHA 686 669.

5. **A.K.RAVINDRAN,PEON (HR.GR.),**
   KERALA LIVE STOCK DEVELOPEMENT BOARD LTD,
   MOOVATTUPUZHA.686 669.

BY ADV. SRI.B.RAGUNATHAN
SRI.V.V.MATHEW

RESPONDENTS:
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1. **STATE OF KERALA REPRESETNED BY PRINCIPAL**
   SECRETARY TO GOVERNMENT,AGRICULTURE (ANIMAL
   HUSBANDRY AND DAIRY DEVELOPMENT)DEPARTMENT,
   GOVERNMENT SECRETARIAT,THIRUVANANTHAPURAM-695 001.

2. **KERALA KERALA LIVE STOCK DEVELOPEMENT**
   BOARD LTD,REPRESETNED BY MANAGING DIRECTOR,
   KERALA LIVE STOCK DEVELOPEMENT BOARD LTD,GOKULAM
   PATTOM.THIRUVANANTHAPURAM-695 004.

BY ADV. SRI.MILLU DANDAPANI-- R2
GOVERNMENT PLEADER SRI. P.NANDAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11/12/2007 ALONG WITH WPC NOS. 11260 OF 2007 AND 35407 OF 2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 10071/2007 Y

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE EXTRACT OF THE MINUTES OF THE 160TH MEETING OF THE BOARD OF DIRECTORS OF THE KLDB LTD.

EXT.P2. COPY OF THE REPRESENTATION DT. 14/7/2006.

EXT.P3. COPY OF THE REPRESENTATION DT. 5/3/2007.

EXT.P4. COPY OF THE LETTER DT. 15/1/2004.

EXT.P5. COPY OF THE LETTER DT. 30/7/07.

EXT.P6. COPY OF THE JUDGMENT DT. 3/07/07 IN WPC NO. 11794/2006.

EXT.P7. COPY OF THE JUDGMENT DT. 5/10/2007 IN WA NO. 2292/2007.

EXT.P8. COPY OF THE MEMO DATED 16/11/2007 RECEIVED BY THE P1.

EXT.P9. COPY OF THE MEMO DATED 16/11/2007 RECEIVED BY THE P1.

EXT.P10. COPY OF THE MEMO DATED 16/11/2007 RECEIVED BY THE P2.

RESPONDENT'S EXHIBITS

EXT.R2(1). COPY OF THE INTIMATION LETTER NO. 28776/AHF1/06/AD DT. 30/7/07 BY THE GOVT.

True copy

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V.GIRI, J.

W.P.(C).Nos.10071 & 11260
& 35407 of 2007

Dated this the 11th day of December, 2007.

JUDGMENT

Common issues arise in these cases and hence they have been heard together and are being disposed of by this common judgment. W.P.(C)No.10071/07 is taken as the leading case and facts are referred to from the said writ petition.

2. Petitioners are employees of the 2nd respondent. As per the statutory regulations which are in force the age of superannuation of the employees is 55. Ext.P1 resolution was adopted by the Board on 24.6.2006 to the following effect.

> **"RESOLVED THAT sanction be and is hereby accorded to enhance the retirement age of the staff and Officers of the Kerala Livestock Development Board Ltd., direct recruited employees who are coming under the purview of the Employees**

Provident Fund and Miscellaneous Provisions Act and Rules 1952 read with Employees Pension Scheme 1995 to 58 years which was decided earlier to be resubmitted to Government for approval."

3. The aforementioned resolution was forwarded to the Government for its approval. By Ext.P5 the Government intimated the 2nd respondent that the proposal cannot now be considered, since there is public criticism about the enhancement of retirement age. The writ petition was filed even before Ext.P5 was issued. But, since the approval of the Government was not obtained on Ext.P1, steps were taken to relieve the petitioners on their completing 55 years of age. They have approached this court at that point of time. Subsequently, Ext.P5 was also challenged in the writ petition by way of an amendment.

4. Counter affidavits have been filed by the Government as also by the 2nd respondent Corporation.

5. Learned counsel for the petitioners Mr.Reghunathan contended that the age of retirement of the employees in several other companies has been extended to 58 years and therefore, there is no reason why the proposal made by the board should not be accepted by the Government. Mrs.Sumathi Dandapani, learned senior counsel for the 2nd respondent, submits that though Ext.P2 resolution is adopted taking note of the subsequent developments, the Government has not yet granted approval for the decision taken in Ext.P1. Therefore the age of retirement of the employees of the 2nd respondent as per the regulation, as it now stands, is only 55. Petitioners have crossed

the age of 55. Therefore, there cannot be any interdiction against they being retired on service.

6. Learned Senior Government Pleader Sri.Nandakumar submits that the decision to enhance the retirement age partakes the character of a policy decision. The Government is entitled to take into account all the relevant facts and circumstances while deciding the question of approval for enhancement of the retirement age. Reference is made to the decision of the Division Bench in the case of the Beverages Corporation. In the said case, the Division Bench interfered with an order declining to accept the proposal made by the Kerala State Beverages Corporation for enhancement of the retirement age of one category of the employees from 55 to 58 (in the case of others the age of

retirement had already been extended to 60). Mr.Nandakumar submitted that **Kavirajan v. K.S.B.C.Ltd {2007(2) KLT 917}** has been challenged before the Supreme Court and there is an order of stay of. Reference is made by to a view taken by a Division Bench in the case of the Forest Development Corporation which seems to be different from the decision taken by the Division Bench in the case of **Beverages Corporation {2007(2) KLT 917}**.

7. In my view, going by Ext.P5 one is not in a position to come to the conclusion that there is a Government decision either to approve Ext.P1 resolution or declining approval as such. In other words, there is no decision by the Government in the matter of approval of the resolution of the Board of Directors of the 2nd respondent Corporation to enhance the retirement age of employees

from 55 to 58. It is necessary that the Government should pass a reasoned order, in the matter of granting or declining approval for the proposal under Ext.P1, for enhancement of the retirement age from 55 to 58.

In the circumstances, the writ petitions are disposed of directing the 1st respondent to take a decision on the question of approval of the proposal contained in Ext.P1 the Board resolution dated 02.9.2003 within a period of two months from the date of receipt of a copy of this judgment. If the Government proposes to decline approval as sought for in Ext.P1, then they shall pass a reasoned order. A copy of this judgment shall be produced by the petitioners before the 1st respondent within four weeks from today. The interim order

passed on 11.6.2007 which only stays the termination until a decision is taken by the Government, will continue till the Government takes a decision. It is made clear that this will only enable the petitioners to receive the salary, which they were drawing and it will not enable them to claim any other service benefits including promotion relatable to the service being rendered on the strength of the interim order, pending decision by the Government.

Sd/-

(V.GIRI)

JUDGE

sk/

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